



Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 14

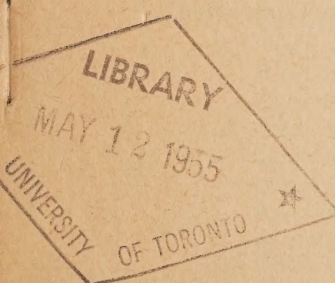
TUESDAY, APRIL 26, 1955

WITNESSES:

From the Juvenile and Family Court of Metropolitan Toronto:

His Honour V. Lorne Stewart, Judge of the Court; and Dr. J. D. Atcheson,
Director of the Court's Psychiatric Clinic.

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Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, April 26, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 10.00 a.m. Mr. Don F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senator Hodges—1.

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), Thatcher, Thomas, Valois, and Winch—13.

In attendance: His Honour V. Lorne Stewart, M.A., Judge of the Juvenile and Family Court of Metropolitan Toronto; Mr. J. D. Atcheson, M.D., D. Psych., Director of Clinic, Juvenile and Family Court of Metropolitan Toronto; and Mr. D. G. Blair, Counsel to the Committee.

The presiding Chairman presented the Fourth Report of the Subcommittee on Agenda and Procedure which was read by the Clerk of the Committee. The said report was considered and, on motion of Mr. Winch, seconded by Mrs. Shipley, was adopted as follows:

Your Subcommittee on Agenda and Procedure met on April 21 and has agreed to present the following as its

FOURTH REPORT

1. On March 29 the recommendation of your subcommittee, that Counsel obtain *verbatim* evidence to be taken *in camera* from persons who have undergone sentences involving corporal punishment, was approved by the Committee. The said evidence has been presented to your subcommittee and verbally reported on by Counsel and is presented herewith as a confidential document with the following recommendations:

- (1) That Counsel summarize the evidence for a confidential report to the Committee at an *in camera* meeting to be held on May 3;
- (2) That an interviewer who had assisted Counsel be in attendance at the proposed meeting for the purpose of assisting and advising the Committee in analysing the evidence;
- (3) That the evidence, after having been edited, be reproduced for distribution and confidential study prior to the proposed meeting to members of the Committee, and that the edited evidence be approved by the Committee at the proposed meeting for printing as an Appendix to the proceedings of that day; and
- (4) That the question of taking or hearing further evidence of this nature, either by Counsel or by members of the Committee, be considered at the proposed meeting.

2. On February 8 your subcommittee was instructed to make recommendations to the Committee as to the manner in which evidence on alternative methods of execution is to be obtained. In this respect it has been determined that Canadian and American witnesses are prepared to appear on the 5th, 10th, and 12th of May. It is recommended that their attendance be authorized.

3. Your subcommittee also recommends that no further hearings of evidence be scheduled by it so that after May 12 the Committee may proceed, as recommended in your subcommittee's Third Report adopted on March 29, to its final review and analysis of evidence and preparation of reports to both Houses.

All of which is respectfully submitted.

On request of the presiding Chairman, the witnesses were introduced by Counsel to the Committee.

Judge Stewart presented and read the witnesses' joint brief on juvenile delinquency and the unsoundness of judicially sentencing juveniles to corporal punishment, copies of which were distributed to all present. Both witnesses were questioned by the Committee thereon and also made further explanatory statements in elaboration of their brief.

During the course of the hearing, the Honourable Senator Hodges assumed Joint Chairmanship for the day representing the Senate.

The presiding Chairman expressed the Committee's appreciation to Judge Stewart and Dr. Atcheson for their presentations.

The witnesses retired.

At 12.10 p.m., the Committee adjourned to meet again as scheduled.

A. SMALL,
Clerk of the Committee.

EVIDENCE

APRIL 26, 1955.
10.10 a.m.

The PRESIDING CHAIRMAN (*Mr. Brown, Essex West*): Would you kindly come to order, ladies and gentlemen? If it is your pleasure, we will now have the fourth report of the subcommittee on agenda and procedure. I will ask the secretary to read the report.

(*See Minutes of Proceedings*)

The PRESIDING CHAIRMAN: The report as read by the clerk, is moved for adoption by Mr. Winch and seconded by Mrs. Shipley. Is there any comment? All in favour? Contrary?

Carried.

Members of the committee will note what is said in the first paragraph of the report, namely:

The said evidence has been presented to your subcommittee and verbally reported on by counsel and is presented herewith as a confidential document with the following recommendations . . .

Now, the evidence taken by counsel is rather voluminous and we have not as yet had it printed. It will be printed, however, within the next few days—by Thursday of this week. So members of the committee will have it in their hands by Thursday and have an opportunity of reading it before the following Tuesday when we shall have an opportunity of discussing this with our counsel and an interviewer *in camera*.

I might advise the committee that on Thursday, April 28 we will hear the Canadian Welfare Council with Mr. Pax Plante, who has had considerable publicity in Montreal, and who will give evidence and a presentation to the committee on lotteries and gambling.

Next Tuesday, May 3, there will be a meeting *in camera* to discuss the examination by Mr. Blair and an interviewer of 15 ex-prisoners who have had corporal punishment.

On Thursday, May 5, at 10.00 a.m. we expect to have Warden Joseph E. Ragen, who is the warden of the Illinois State Penitentiary who will discuss capital punishment with respect to alternative methods, in particular, to electrocution and corporal punishment.

On Tuesday, May 10, we will have Professor J. K. Ferguson of the University of Toronto who will speak on capital punishment, with respect to alternative methods of capital punishment and in particular injections.

On Thursday, May 12, we will have Mr. Clinton T. Duffy, a member of the California Adult Authority on Alternative Methods. He was, I believe, the warden at San Quentin Penitentiary in California. He will discuss gas chambers in particular and some further discussion on corporal punishment as well.

Both Warden Duffy and Warden Ragen will discuss capital punishment as well as corporal punishment.

Today we have with us His Honour V. Lorne Stewart who is a judge of the Juvenile and Family Court of Metropolitan Toronto, and Dr. J. D. Atcheson of the court's psychiatric clinic. I am going to ask Mr. Blair, our counsel, to introduce the witnesses.

Mr. BLAIR: Mr. Chairman, there cannot be much doubt about the distinction of our witnesses today because when we walked in the doors of the building we were stopped by the press and photographers and they asked us if any of us were provincial premiers.

Judge Stewart is the Chief Judge of the Juvenile and Family Court of Metropolitan Toronto. He has the distinction of coming from the province of Saskatchewan. He is a graduate of the University of Saskatchewan and of the University of Toronto. He has been associated with his court for eleven years, first as deputy judge, and for the past three years as the judge of the court.

Dr. Atcheson is a graduate in medicine of the University of Western Ontario. He took post-graduate work in psychiatry at the University of Toronto. He has been engaged in psychiatric work for more than ten years and he has been director of the psychiatric clinic which is attached to the juvenile and family court of Toronto.

In addition, he has been a clinical teacher and is a clinical teacher in the Department of Psychiatry at the University of Toronto, and he is a psychiatric consultant for the Department of Reform Institutions.

I think it is a matter of pride for this country that this juvenile court and its psychiatric clinic attached to it have attracted considerable attention from other parts of the world. The work done in this court has been studied by medical and legal students from abroad.

Dr. Atcheson is the author of a number of monographs of some importance dealing with questions of juvenile delinquency.

I believe Mr. Stewart will present the brief on behalf of the Juvenile and Family Court.

His Honour V. LORNE STEWART, M.A. (*Judge, Juvenile and Family Court of Metropolitan Toronto*): Mr. Chairman, and members of the committee, both Dr. Atcheson and I appreciate the opportunity of being present with you today to explain to you how a juvenile and family court judge and a doctor can work together as a team with a common purpose with respect to children and families in trouble. I would like to read our brief to you.

The PRESIDING CHAIRMAN: Pardon me. Have all members got copies of the brief?

Mr. STEWART: We have a number of specific cases which we would like to discuss with you in the period following the presentation of our formal statement. The brief reads as follows:

In being asked to speak before your Committee concerning the use of corporal punishment we feel that our principal emphasis should be upon juvenile delinquency with special attention to the validity of whipping as a judicial sentence. We would like to quote from that splendid monograph produced by Dr. Lucien Bovet for the World Health Organization, entitled* "Psychiatric Aspects of Juvenile Delinquency". In his general observations concerning the prevention of Juvenile Delinquency he states:

What is the object of considering juvenile delinquency and studying the means of its prevention? The obvious answer is surely that we are seeking to combat adult delinquency with all its train of consequences. Indeed, if juvenile delinquency were a phenomenon strictly limited to persons of less than a given chronological age, without any regard to the future behaviour of the adult, it would scarcely be worth while to devote so much time to its study and prevention. The material harm caused by crimes committed by juveniles is of relatively little importance, and, if the delinquent conduct of boys and girls were merely a kind of youthful measles which could be completely cured, there would be no great cause for anxiety.

*Psychiatric Aspects of Juvenile Delinquency, L. Bovet, World Health Organization, Palais Des Nations, Geneva, 1951.

No member of a juvenile court team, whether, judge, doctor or probation officer, will deny the seriousness of the problem of juvenile delinquency. However, perhaps its true magnitude and social significance can better be appraised when it is considered in the light of its relationship to adult crime. It cannot be too strongly emphasized that in dealing with the problem of juvenile offenders we represent the first line of defence against the problem of adult crime. The finding that most adult criminals begin their careers as juvenile delinquents offers powerful evidence in support of this claim. We consider that our efforts, in attempting to study the problem of juvenile delinquency scientifically, are really directed toward preventing more serious criminal behaviour at an adult level. The fact that the great majority of

juvenile offenders do not reappear in juvenile courts, is, at least, presumptive evidence that such courts are performing their preventive jobs well. Someone has said; "The children's court is the State's protection against grave crime in ten or twenty years time". In the case of the juvenile the community can, without grave risk, set itself the task of reclaiming a potential enemy at an age when success is most likely. Thus, because such courts do have a more important relationship to adult crime than may appear on the surface we may reasonably be expected to know something about the means of preventing continuing criminal behaviour.

An illuminating parallel may be drawn between the field of juvenile delinquency and that of preventive medicine. Medicine realizes that there are many disease conditions which can be prevented even though they cannot be treated adequately once they have appeared. We have recently seen a tremendous demonstration of this basic principle in Dr. Salk's monumental work in preventing poliomyelitis. Similarly, our attempt to understand adequately the many causative factors that produce juvenile delinquency is based on the theme of preventing adult crime. "Shot-gun" prescriptions usually administered after the fact in the form of legal and social punishment are still used in a frantic attempt to deal with some of the unfortunate conditions that man, in his social structure, is heir to, without sufficient research being directed toward preventive measures that might have been much more effective.

We would like to focus your attention on our experience in the Juvenile and Family Court of Metropolitan Toronto in dealing with a large number of delinquent children under sixteen years of age.

You may be interested in knowing that during 1954, we had 1,389 children appear before our court. In this court, of course, we have exclusive jurisdiction over children under 16 years of age.

This Court, created in 1912, has always taken a serious view of delinquency—and I cannot emphasize this too strongly—and has continually stressed to the young offender that he must be a responsible person. Methods of approach have changed somewhat with the years but always blended with this firm insistence upon responsible behaviour has been a realistic concern about the reasons underlying delinquent activity. To the young person we say, "you have done wrong; you must make up for what you have done; you must change your ways". To the parents, to the community, to ourselves we pose the questions, "why did he do wrong?, who is to blame?, what can we do to prevent the recurrence of such behaviour?"

This approach, we believe, is the natural outcome of the point of view expressed in Section 38 of the Juvenile Delinquents Act:

This Act shall be liberally construed to the end that its purpose may be carried out, to wit: That the care and custody and discipline of

a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a mis-directed and misguided child, and one needing aid, encouragement, help and assistance.

With this basic philosophy in mind our Court has utilized the services of all those professions that might contribute to an understanding of the problems, medical, psychological, social, educational, as well as religious agencies, are all solicited for assistance. A composite assessment of the problem presented and the needs that it manifests is thus obtained. These agencies close to the problem of delinquency know that it is a complex one and does not lend itself, without great effort, to understanding or successful treatment. We are of the opinion that a progressively more complete understanding of the multitude of factors that contribute toward the delinquency of children is being unearthed. The basis of our approach in dealing with these early signs of criminal activity is, therefore, the logical, accurate and scientific observation of the problem before the Court. It is an additional source of satisfaction in this work to find that such conclusions are consistent with a humanitarian philosophy and a respect for the dignity of the individual.

We fully realize that there are still distant horizons in understanding human behaviour; however, as the facts slowly reveal themselves, there are more and more specific conclusions being drawn. We are continually seeking methods, through the application of which the child will undergo a process of social learning, which will direct him toward living comfortably within the boundaries of socially acceptable behaviour. If, in the process of seeking such methods we had at any point discovered corporal punishment to be in any way useful we would have long since added it to our techniques. The facts are precisely otherwise. It has not proven itself to be useful at any level in dealing with the juvenile offender.

Prior to 1938 corporal punishment was recommended in our court on numerous occasions. This was not ordered by the judge but it was strongly recommended and was administered on the premises by a parent under the supervision of a court officer. This officer who supervised most of the strapings, states that in his considered opinion, although the punishment might have been temporarily effective in certain cases, in the vast majority it served no useful purpose and furthermore, it created an attitude of aggressive hostility that became a contributing factor in future misdemeanours.

This has been the experience of a probation officer on the job. Corporal punishment was abandoned, not merely because of the opinion of one officer who observed its administration but rather as a by-product of the development of our total approach. This approach is directed toward understanding, as far as possible, the environmental influences, the constitutional factors, and the consequent motivation that is present in the child and which is the prime mover of his delinquency. When such information is provided it is possible to prescribe realistically and helpfully a very different solution than blindly handing out the strap as a kind of weird, magical cure-all. This conclusion was arrived at by means of a mutual learning process between law and medicine which resulted in genuine effective interprofessional communication. Such a conclusion was of necessity, held tentatively at first but in this case it was rapidly verified in other courts on this continent and abroad. It may safely be said that this approach has now become a routine technique of general practice.

We see recorded this same conclusion in the report of the departmental committee on corporal punishment British Home Office 1937, in which it was

recommended unanimously that the power of the Juvenile Court to order birching be abolished, this conclusion being made after a very careful analysis of the problem.

The British parliament saw fit by the Criminal Justice Act 1948 to put these recommendations into effect. An earlier confirmation of this viewpoint is made in the report of the departmental committee on the treatment of young offenders, British Home Office 1927 and I quote what seems to me to be a very significant statement:

Whipping as a method of dealing with offenders has given rise to much controversy and is the subject of diverse opinions. It will, however, be generally admitted that there is a great difference between the corporal punishment of boys under 16 or 17 and that of lads approaching maturity or of adults. We propose to limit our remarks mainly to the former class. The figures published in the reports of the Children's Branch show that only a comparatively small number of the boys who appear before juvenile courts are ordered to be whipped. In 1925 the number was 452 or 1.86 per cent of those found guilty, whereas in 1913 the percentage was 8.33. The reason for this marked decrease in the use of whipping in recent years may be due partly to the increasing use of probation, and partly to the belief which was expressed by several Magistrates and other witnesses that for the majority of young offenders whipping is neither effective as a deterrent nor valuable as a means of reformation. It was pointed out to us that some of the boys who came before the courts have had physical chastisement of some kind or other administered to them in their own homes, and on that ground alone the effect of a whipping ordered by a Court is less than otherwise might be.

It would be unrealistic to recommend the elimination of corporal punishment in dealing with offenders whether at the adult or juvenile level unless we can offer a better, more effective method of dealing with the problem. Prevention always presumes some degree of knowledge concerning causation. In this case it represents much more than psychiatric opinion as to whether or not the person is suffering from a mental illness. To understand causation we must first of all appreciate the social, economic and psychological stresses under which the offender has developed his attitude toward society. Prevention may rest in correcting some of these factors or it may consist, in part, in teaching the offender to live under these stresses in a socially acceptable manner. The achievement of these goals involves the full social resources of the community. Probation, education and social agencies, both public and private, already exist and are dedicated to playing their appropriate roles in the task of social rehabilitation. Just as the court clinic has proven itself to be an invaluable aid to understanding the reason the delinquent child stands before the court, so the probation officer in the community, has proven our main bulwark against recurring delinquency and crime. A well qualified, skilful, energetic probation officer, provided with clinical information, working patiently, firmly and kindly with the juvenile delinquent can frequently change his attitude and redirect his whole pattern of behaviour without the use of corporal punishment.

And now, ladies and gentlemen, these final conclusions;

It has been our desire in presenting this brief to describe to this Committee our conclusions arrived at over a period of years concerning the use of corporal punishment in dealing with the juvenile offender. In being asked to submit this brief we felt it necessary to reconsider carefully the stand which we have taken in this matter. As we have analysed the historical, statistical and philosophical components which have become part of our daily operation in the court we have felt reinforced in our opinion. Inspection of the findings

of other courts and parliamentary committees set up to investigate this matter has also strengthened our convictions. To summarize our position we find that over a period of forty-three years our court has changed from recommending corporal punishment to a position of being strongly convinced that it serves no useful purpose, and that a complete understanding of the problem must precede any structured treatment. These conclusions were arrived at through the mutual sharing of the problem by law, medicine, education and other social sciences. The role of the court clinic has also changed over the years. At first it might have been considered a guest in the legal household. It has now arrived at the point where it is considered an accepted member of the household. We recapitulate our conclusions as follows:

1. Corporal punishment administered as a result of judicial sentence in a Juvenile Court is basically unsound.
2. There is no panacea for the problem of Juvenile Delinquency. Our safest approach is through the careful study of each child and his surroundings.
3. Out of the Juvenile Court experience has come the conviction that before we can cure either delinquency or crime we must understand the etiology of the offender's behaviour pattern.

Mrs. SHIPLEY: What does that word mean, please—etiology?

Dr. ATCHESON: May I offer a definition?

Mrs. SHIPLEY: Yes, please.

Dr. ATCHESON: Causation, basically; the factors which would contribute to the cause of a disease process.

Mrs. SHIPLEY: That is what I assumed, but it is a doozer!

The PRESIDING CHAIRMAN: If members of the committee have any questions they would care to submit to either Judge Stewart or Dr. Atcheson, they will now have the opportunity of doing so. Shall we start with Mrs. Shipley?

Mrs. SHIPLEY: I wanted to ask one question before we started. I would like to know if you gentlemen approve or disapprove of ordinary corporal punishment within the home in raising your own children? I mean, justified corporal punishment; spankings, and that sort of thing?

The PRESIDING CHAIRMAN: Either or both of you gentlemen?

Dr. ATCHESON: I would reply in the same vein as the judge, describing the changes our approach has taken over the years in the court. I think prior to my scientific experience in observing the development of children and the processes that are involved in their learning socially accepted behaviour, I might have offered a rather simple explanation and said that a good whipping never did anyone any harm. However, as my experience has progressed, I must admit I have changed my point of view. I hope this change can be accepted as coming from a scientist who approaches his problem objectively, and who is most gratified if he ends up with a humanitarian approach.

Mrs. SHIPLEY: Doctor, I would like to know how both of you feel about this matter. I am not referring to the sort of punishment that was administered perhaps even as short a time ago as 15 years ago. I am referring to the more enlightened approach to whipping, or disciplining children. I am talking about mild spankings when the parent has tried everything else. I am referring particularly to the very young child—perhaps around two years of age—when it is so extremely difficult to train them, and they do not reason very well. I am talking about a loving home, and loving parents and so on, and about the efficacy of mild spankings on a very young child.

Dr. ATCHESON: There may be a variance of opinion between law and medicine in the very personal way in which the question is placed. My own answer would be that I would disagree with corporal punishment as a method of disciplining a child no matter what age he might be. My experience in studying the problem scientifically has led me to believe and has impressed upon me that there is always a better approach to the problem.

Mrs. SHIPLEY: Would you care to express an opinion on the subject, Judge Stewart?

Mr. STEWART: Doctor Atcheson has three children; I have had a little more experience, I have four. You have made a thrust here at a very crucial point, I must admit to start with, because it is a point upon which there may be some honest differences of opinion. I feel that in a good home where the child feels secure and is loved, a certain amount of physical interference would not do any harm. I think the real danger is when an impersonal tribunal such as the juvenile court is given the power to administer punishment at some time considerably removed from the act, and in an atmosphere in which the security and affection of the home are not present.

Mrs. SHIPLEY: Thank you, that is all, Mr. Chairman.

The PRESIDING CHAIRMAN: Mr. Fairey?

Mr. FAIREY: No questions.

The PRESIDING CHAIRMAN: Mr. Cameron?

Mr. CAMERON (*High Park*): Where does the scientist end and the father begin, Judge Stewart, in this discussion of Mrs. Shipley's?

Mr. STEWART: I am not the scientist.

Mr. CAMERON (*High Park*): Dr. Atcheson then?

Dr. ATCHESON: What was your question?

Mr. CAMERON (*High Park*): When Mrs. Shipley was asking these questions, I was just trying to figure out where the scientist ends and the father begins. When we as parents have succumbed to the urge and applied mild punishment I wonder if we have not passed from the position of scientist to the parent and have given up and said, "Well, these principles are sound, but darn it all, we just do not have time to put them into effect, so we will try something a little more drastic and quicker".

Dr. ATCHESON: The ability to pursue a subject scientifically does not change the investment we have as human beings and all parents would admit that they have failed at times.

Mr. CAMERON (*High Park*): The answer is that it is the parents' failure?

Dr. ATCHESON: If I may, I would prefer to spell out my opinion a little more completely rather than giving a direct answer. I think as parents we have learned over the years better methods of approaching the nutritional needs of our children. We are scientific in the way we approach this problem. This fact is borne out in life insurance tables giving the height and weight of children today, and their increased life expectancy. Therefore I believe it is reasonable to assume that we might also find better ways to offer the necessary nutritional components to their emotional growth.

Mr. CAMERON (*High Park*): I remember that in Toronto years ago—I will not mention any names, but one certain doctor who was supposed to be a child psychologist practised the theory of not applying corporal punishment and the universal opinion that I used to hear was that the children were the worst little brats in Toronto, but I do not know—

The PRESIDING CHAIRMAN: How many children did he have?

Mrs. SHIPLEY: We all know who he is talking about.

The PRESIDING CHAIRMAN: I am sorry, I thought you said he had children.

Mr. CAMERON (*High Park*): I agree with you, Dr. Atcheson, but I also think that the problem is with the parents, and probably their education should be started. Perhaps in the generation that is coming up now, these modern scientific ideas will be emphasized. Actually, it is Christianity in practical application, you might say. Perhaps the forthcoming generation will do a better job with their children than we have done with ours.

Dr. ATCHESON: I would certainly feel that your statement is my conclusion as I look at the approach today.

Mr. CAMERON (*High Park*): I have no further questions.

The PRESIDING CHAIRMAN: Mr. Leduc?

Mr. LEDUC (*Verdun*): On page 5 of the brief, it is stated that probation, education and social agencies, both public and private, already exist, and are dedicated to playing their appropriate roles in the task of social rehabilitation. Are these agencies sufficient today in all parts of the country?

Mr. STEWART: Mr. Leduc, I think we are just beginning to provide adequate probation services across this country. The Attorney General of the province of Ontario has launched a great program in this regard, and I think money spent in hiring well qualified, sincere and down to earth probation officers will save us great sums of money in terms of the cost of administering institutions. That is only an expression of opinion.

Mr. LEDUC (*Verdun*): Are these agencies sufficiently supported, financially or otherwise, by the public and the provincial authorities, I might say?

Mr. STEWART: I do not know how I can answer that question. Would you care to comment on it, Dr. Atcheson?

Dr. ATCHESON: I think your question could be answered in this way. All of us who are close to the field recognize the needs in this area which would give an imperative "no" to your question, but I think as we inspect the facts closely, we feel we cannot be critical of the observation that the "no" exists. We cannot proceed dealing with human problems beyond the level that society as a whole can accept. If I can draw an example from medicine, we see people who will not accept a given medical formula even if it has proven itself to be effective. This is a program which will come over the years. I have become optimistic about our approach, and I place it in a period of time.

The PRESIDING CHAIRMAN: Pardon me. Would Senator Hodges please come up here to the head table.

Mr. STEWART: There is a problem which I would like to hear Dr. Atcheson comment upon. From the bench I see the need for special facilities for emotionally disturbed children who are very difficult to reach by the usual channels. Perhaps Dr. Atcheson might contribute something on that level.

Dr. ATCHESON: The contribution which I feel my profession can make in this area is: first of all, to dispel the consideration that sometimes is made that juvenile offenders, of necessity, are mentally ill. This does not follow.

There is, however, a small number of children coming before the juvenile court who demonstrate signs of early mental disorder which we are now professionally capable of recognizing. It is indeed a dilemma in which the physician finds himself involved when tackling this problem, because he finds himself without facilities to hospitalize these children. We, in our large metropolitan area, represent the largest proportion of the population group without adequate facilities with which to deal with early recognized mental disorder coming before the court. I feel this is the problem to which the judge is referring.

Mr. FAIREY: Could it be cured? Could this mental disorder respond to treatment?

Dr. ATCHESON: Under adequate conditions, yes.

The PRESIDING CHAIRMAN: Mr. Boisvert.

Mr. BOISVERT: Mr. Chairman, is there an increase in juvenile delinquency in Canada?

Dr. ATCHESON: I do not know if I can answer your question accurately. The problem must be dealt with in reference to the population increase. We see this increase in our rapidly expanding metropolitan area, part of which is due to population growth in and of itself, and part of which is due to the complicated society which such growth creates, such as changes to industrial and weighted neighbourhoods, and so on.

The PRESIDING CHAIRMAN: There will be a report published soon issued by the Dominion Bureau of Statistics which will reveal those statistics.

Mr. BLAIR: What do you mean by "weighted neighbourhood"?

Dr. ATCHESON: One in which the economic and social conditions are below the marginal conditions which our society would describe as our standard of living, or to put it very clearly, slum areas.

Mr. BOISVERT: In answering a question you said you have approached this problem from a scientific point of view. Is there much difference between reality and a scientific point of view?

Dr. ATCHESON: I think the most gratifying experience I have had is that of finding an approach to this problem objectively and without bias as a scientist, and I find that I arrived basically at a humanitarian philosophy.

Mr. BOISVERT: Another question is this: do you not think that when corporal punishment is left as a duty of the parents, it should start at home rather than in court?

Dr. ATCHESON: I would agree with the point of view expressed, and I would carry it a step further. In answer to the question of another member of the committee I have already said that in my opinion corporal punishment is not a useful procedure. Perhaps one of the reasons for my viewpoint being so dogmatically expressed is my inability scientifically to define the term "mild".

Discipline, we assume, is going to follow the act very quickly if there is a learning process to take place; and we assume also that discipline will be graduated according to the act.

Mr. BOISVERT: Do you not think that it is the duty of the parents of the child to bring him up and fit him to be an integrated entity and responsible to society?

Dr. ATCHESON: I could not possibly agree more with your statement.

Mr. BOISVERT: I am trying to find out from the very good evidence you have given us the difference between the science and the morals of the true facts of life. After all, children are brought up by their parents to be integrated into a responsible society. You are trying to convince us that from a scientific point of view it could be wrong. That is what I would like to clear up in my mind.

Dr. ATCHESON: I am very sorry if I have left that impression with you because I certainly did not mean to do so.

Mr. BOISVERT: Let me read from page 2 of your brief.

The PRESIDING CHAIRMAN: Whereabouts are you reading?

Mr. BOISVERT: From page 2, the second paragraph, which reads as follows:

An illuminating parallel may be drawn between the field of juvenile delinquency and that of preventive medicine. Medicine realizes that there are many disease conditions which can be prevented even though they cannot be treated adequately once they have appeared.

So medicine is used to treat the human body as a body, as something material; and juvenile delinquency might have in some cases the result of mental illness for instance. But from a general viewpoint it is a defect of the soul of the child which it is the duty of the parents to cure if it is possible. That is why I am a little bit confused with this illustration comparing medicine which is used for the treatment.

The PRESIDING CHAIRMAN: As I understand it, Dr. Atcheson has not said that a child shall not be corrected. He said that they should be.

Mr. BOISVERT: He suggested different means to correct children. That is I think the substance of his brief. Is that not in fact the substance of his brief? I quite agree with the doctor about not imposing corporal punishment by a court of justice as part of a sentence not only for children, but I am trying to recollect the etiology, to use his term, of his reasoning.

The PRESIDING CHAIRMAN: Perhaps we could get a clarification of this point. My understanding is that Dr. Atcheson said that a child should be corrected and that it is the duty of the parents to correct the child; but sometimes we, as parents, become impatient in our methods of correction and we just revert to corporal punishment. Dr. Atcheson says we should correct the child and direct the child and lead him along the right path, but we should not revert to corporal punishment in order to attain that end, that is, to attain the desired end. Is that right?

Dr. ATCHESON: Yes.

Mr. BOISVERT: We read reports in newspapers; I do not know if they are true or false, but according to those reports there is an increase in juvenile delinquency in every country in the world. In the United States it has become terrible, according to the news and statistics we get; so if we have been applying these scientific principles to deal with the problem, I suggest that they have failed up to now and that we should find a new way. Maybe Dr. Atcheson would illuminate us about this new way of tackling the problem.

The PRESIDING CHAIRMAN: As to whether or not juvenile delinquency is increasing, if you refer back to Professor Jaffray's evidence—you will remember that he was from the University of Toronto—he quoted statistics to show that juvenile delinquency is not on the increase, but that we probably hear more about it today than we did a few years ago, or many years ago. The fact remains that it is not on the increase; people are not getting worse and worse; they are becoming better and better.

Mr. BOISVERT: I do not want to start an argument with you, Mr. Chairman; but I have figures to show that juvenile delinquency is increasing in Canada as well as in the United States.

The PRESIDING CHAIRMAN: If you have such figures I wish you would give them to us.

Mr. BOISVERT: It is all right to say that according to population there is no increase. Maybe we could find out something different from the figures; I do know that with figures we can show very contradictory things.

The PRESIDING CHAIRMAN: We are a fact-finding body, and if you have figures which would refute what Professor Jaffray had to say, then let us have them. I think it is your duty to bring them forward. All we are trying to find out is the truth.

Mr. BOISVERT: I know that. That is why I am asking my questions to find out the truth. The figures might show that we are not going to be right in passing an opinion on this problem.

Mr. STEWART: Statistically speaking, in the city of Toronto, juvenile delinquency was much lower in 1954 than at any time during the war. During certain years delinquency was up as high as 1800 cases in Toronto, while last year it was approximately 1,000.

Hon. Mrs. HODGES: You say juvenile delinquency?

Mr. STEWART: Juvenile delinquency—under sixteen years of age.

The PRESIDING CHAIRMAN: Has the population of Toronto not increased since the time of the war, from a statistical point of view?

Mr. STEWART: Yes, I think that is correct.

The PRESIDING CHAIRMAN: Could you say to what extent?

Mr. STEWART: I cannot answer that.

Mr. BOISVERT: Oh, yes, since the last war it has increased by nearly one quarter.

The PRESIDING CHAIRMAN: You say it has increased one quarter.

Dr. ATCHESON: In reply to a question asked which I gather is in the area of the moral growth of the child, I would draw a specific example from our experience as proof of the point that we now know much more than previously about the learning process of children.

I ask a simple, trite, question of a juvenile delinquent appearing before me: "What is wrong with stealing, Johnny?"

On numerous occasions the child will reply: "There is nothing wrong with it, except that you get caught."

You see his concept of it is quite different from the moral values which prevent you and I from stealing. We are extremely interested in finding out where, why, how, and through what educational process we can teach him acceptance value systems. Of the children who gave me this reply, 95 per cent had received violent corporal punishment from their parents.

The PRESIDING CHAIRMAN: Mr. Boisvert?

Mr. BOISVERT: No. I am finished.

Mr. FAIREY: How do you relate the one to the other?

Dr. ATCHESON: Through the intimate nature of the interview in which, eventually we successfully gain an understanding of the child's attitude towards his parents. Many times my question: "What is wrong with stealing?" can be supplemented with the question "What did your mother or your father do about this?"

Many times the reply is: "They gave me a good slap, and then shared with the rest of the family the biscuits which I stole."

Mr. BOISVERT: Do you check on the parents to see if the parents of these young criminals were criminals themselves?

Dr. ATCHESON: Every parent of a child who comes to our clinic is interviewed by a skilled person.

Hon. Mrs. HODGES: Have you found that the parents in the majority of these cases are people with criminal tendencies?

Dr. ATCHESON: I will generalize in my reply and say that in 30 per cent of our cases we would find evidence of anti-social behaviour in other members of the family.

Mr. STEWART: In approximately 60 per cent of the cases there is a definite disturbance in the home itself as between the husband and the wife.

The PRESIDING CHAIRMAN: Mr. Thomas?

Mr. THOMAS: I have no questions.

The PRESIDING CHAIRMAN: Mr. Valois?

Mr. VALOIS: I have no questions.

The PRESIDING CHAIRMAN: Mr. Winch?

Mr. WINCH: Mr. Stewart and Dr. Atcheson have emphasized that corporal punishment has no place in the judicial atmosphere. May we take it also from what we have heard that the same principle, in my assumption, applies to the method of discipline once the child is inside an institution?

Dr. ATCHESON: I would again offer as my opinion a very definite point that I would disagree with corporal punishment within a juvenile institution. My experience as consultant for the Department of Reform Institutions has led me within Ontario training schools, and I would offer as an example that over the years in the Bowmanville Training School corporal punishment has ceased.

I inquired of the staff who were closest to the problem why it ceased and they stated that they had found a better method. They no longer used it and the staff did not wish to return to it. Their other method is to enquire carefully as to the cause of the general behaviour which would have led to corporal punishment. Corporal punishment is no longer used in the training schools of Ontario. They employ basically a humanitarian approach and they pursue an attempt to find the disturbing factors which created the child's behaviour disturbance.

Hon. Mrs. HODGES: What methods do they use in disciplining, or in making the inmates adhere to the rules and regulations of the institution?

Dr. ATCHESON: Isolation from what could be a pleasant group experience, supplemented very quickly by discussion with an adult counsellor.

Mr. WINCH: I cannot put my finger on it at the moment but I think there is a reference in the brief. First of all, of course, there is the very definite position taken by our two witnesses with respect to corporal punishment for those under sixteen years of age, and there is something here about which I think there was expressed a little bit of doubt as to its efficacy on the older group. I would like some explanation why that doubt arises.

The PRESIDING CHAIRMAN: Could you point it out to us?

Mr. STEWART: It is beyond my jurisdiction. I would prefer to pass it on to Dr. Atcheson.

The PRESIDING CHAIRMAN: Could you point it out in the brief? Do you recall where it is in the brief? Would it be on page 2?

Mr. THOMAS: I think it is a quotation on page 5.

Mr. WINCH: That is right.

The PRESIDING CHAIRMAN: At the top of page 5 there is a quotation from the British report.

Mr. WINCH: Yes. It reads as follows:

Whipping as a method of dealing with offenders has given rise to much controversy and is the subject of diverse opinions. It will, however, be generally admitted that there is a great difference between the corporal punishment of boys under 16 or 17 and that of lads approaching maturity or of adults.

It was that quotation. Do you agree with that opinion?

Mr. STEWART: The quotation was put in largely for the last half of it with respect to its effectiveness having regard to young offenders. I would prefer not to answer the question. If Dr. Atcheson wishes to do so, it is up to him.

Dr. ATCHESON: I would disagree. If a psychiatric examination of an offender, who has proven refractive in an institution, is carried out prior to the administration of corporal punishment as it is in many cases, it is simply to determine whether or not you are strapping a mentally ill person. It is very easy to make the error of administering a strapping to a person suffering from a mental disorder. I think that most of us would consider, in light of our present concepts of mental illness, that this would be a very immoral act. If, however, clinical investigation is able to show what caused the individual to act in this refractive manner, the examination then becomes a prolonged investigation as to the causation of his behaviour prior to the act itself. Through working with the patient we hope he will gain an insight into the purpose of his behaviour and what he is actually failing to accomplish.

Mr. WINCH: Is it your experience that by far the majority of cases of juvenile delinquency which come before you come from either insecure homes, emotionally or otherwise, or from slum areas?

Mr. STEWART: I said a few moments ago that at least 60 per cent of our delinquents come from homes in which there is definite disturbances between husband and wife.

Mr. WINCH: How about slum areas?

Mr. STEWART: As we study the problem of delinquency in a big city, we find we have a double social phenonema with both a concentration and a dispersion of delinquency. We have delinquency concentrated in certain areas, just as Dr. Atcheson said a few moments ago; but we also have the disturbing fact that delinquency is often found among children coming from homes which are substantial homes, financially.

Mr. WINCH: I have one short question and then I am through. Might I assume, Mr. Stewart, in the cases that come before you, that the court knows that in the slightly older age group there is a high percentage of first offenders charged with stealing a car for pleasure?

Mr. STEWART: I cannot give you statistics on that.

Mr. WINCH: Would you say that it was a fairly heavy majority?

Mr. STEWART: We get a considerable number on that basis, certainly.

Mr. WINCH: Thank you.

The PRESIDING CHAIRMAN: With respect to the point that a great many delinquents come from substantial homes, if so, if that is your statement, how do you account for this delinquency?

Mr. STEWART: Because, Mr. Chairman, we can find differences of opinion as between husband and wife in homes of fairly substantial means as well as in homes in which there is poverty.

Hon. Mrs. HODGES: Is there not also another factor that the children may have been hopelessly spoiled in the substantial homes? Could they not have received all they wanted and are simply looking for new thrills?

Mr. STEWART: That is quite true.

Mr. WINCH: In the home of a more substantial nature, do you find that the child may perhaps becomes delinquent because he comes more under the control of servants? I am not putting any inference on servants.

Mr. STEWART: Less under the control of parents and more under the control of the crowd at the corner! May I answer it in that way?

Mr. WINCH: Thank you.

The PRESIDING CHAIRMAN: That does not quite answer the question. It had a bearing on servants and their possible influence on the child.

Mr. STEWART: I am afraid that I am not in a position to answer that.

Hon. Mrs. HODGES: Servants are such a rarity these days that I do not think they have any influence, so to speak.

Mr. BLAIR: I think he meant the poorer type of parents who would abandon control of the child.

Mr. WINCH: More than that of an employee who would accept the responsibility.

Miss BENNETT: May I preface my few remarks by stating that I am the only "old maid" in this group and therefore I am at a distinct disadvantage.

The PRESIDING CHAIRMAN: I think you are probably better qualified then.

Miss BENNETT: They say that old maids bring up the best children.

Mr. WINCH: Your condition is not due to the fact that you have not had an opportunity of saying "Yes".

The PRESIDING CHAIRMAN: Now we have that out of the way.

Miss BENNETT: The question I would like to ask the doctor and the judge is this: no reference has been made today, although I think you had it in mind, to the religious background in this matter of juvenile delinquency?

Mr. STEWART: May I tell you a little story. Sometime ago a boy and his two parents stood before me in court. I turned to the father and said: "What is your religion?"

He hesitated for a few minutes, and the boy looked at him and watched him squirm. I tried to help the father, and I said: "Are you a Roman Catholic, or are you a Protestant?"

He said: "I am a Protestant." And I said: "What is your denomination?"

He could not think of a denomination so I tried to help him and I said: "Are you an Anglican?" and he said: "No, no, I am not an Anglican."

I said: "Are you a United churchman?" and he said: "No, I am not a United churchman." Then a bright idea struck him and he said: "I know. I am a pedestrian."

I am afraid that a lot of our parents are pedestrians.

Dr. ATCHESON: In following up our study in the court we have had five thousand cases of delinquency in which this question of religious denomination has been rather closely scrutinized. I think the judge summarized it very well, with his story. Invariably the religious denomination is mentioned, but very infrequently is it implemented in the home. I think it would follow that our findings would indicate that, if the value systems taught by religious instructors were accepted, then delinquency could not occur. There are some components which are interesting culturally in this area, and I would make special mention in this respect to the Hebrew faith in which the family is extremely integrated. There is a tremendous falling-off (decrease) of delinquency in the Jewish area.

The PRESIDING CHAIRMAN: What about the Chinese?

Dr. ATCHESON: This is small due to the limited population we have. We see very few, actually.

Hon. Mrs. HODGES: That applies to Jewish adults, as well? Adult delinquency?

Dr. ATCHESON: I think this is a finding that others have found in the adult field.

Miss BENNETT: That is an interesting observation, and it is something I have wanted to know. I have been interested in the whole moral and religious atmosphere. What is being done in the court and by yourself, doctor, regarding this matter? Is anything being done or has any method been suggested to revive the religious background in the homes of these delinquent children or anything of that nature?

Mr. STEWART: We put a great many of our children under the supervision of a court worker or probation officer, and part of the court program of setting up supervision is to direct a child and his family to the church. We worked hand in hand with the local church.

Miss BENNETT: There is just one other question I wanted to ask. I wonder if you would enlarge on the statement which appears in paragraph 2 of the last page of your brief. It says: "There is no panacea for the problem of juvenile delinquency." I just wondered how far you intended us to go in thought in regard to that particular statement?

Mr. STEWART: I am saying there that there is a great danger in oversimplifying the problem of delinquency. From our experience, the best answer lies in a very careful study of the problem on a "case-at-a-time" basis, and a "child-at-a-time" basis. That is the reason why in 1920 a psychiatrist was added to the staff of the Toronto court, and without interruption since that date, we have had a psychiatrist and staff as part and parcel of the court staff working in close conjunction with the judge and with the probation officers in that field. It is an invaluable asset to the court itself.

Miss BENNETT: That is fine.

Mr. MONTGOMERY: Mr. Chairman, most of the questions that I had in mind have been answered, but I have a question which has just come up. You, Mr. Stewart, have been in the judicial field for some time. Do you find many repeaters—let us say, children you have dealt with two years ago—do you find them coming back into the court?

Mr. STEWART: We are under such pressure, and there is such a large volume of work—you see, it is a juvenile and family court—that we would like to know the answers to questions like that. We wish we could have a research program of following up our cases in order to know how to answer that question accurately. For example, last year we dealt with 5,902 children. Of that total, 1,389 children were officially charged and 4,513 children were dealt with unofficially. Also, we had 39,997 domestic problems before the court.

Hon. Mrs. HODGES: How do you compute those; one domestic problem to a family?

Mr. STEWART: Yes.

Hon. Mrs. HODGES: That means there were 39,997 families?

Mr. STEWART: Yes. Of that total, 3,197 were actually dealt with in court action, and 36,800 were dealt with unofficially by probation officers without court action. A total of \$1,016,808 was collected from deserting husbands which represents a savings in welfare and relief costs. There were 4,654 hearings with respect to neglected children. We simply have not had an opportunity to get a statistical answer to these questions.

Mr. MONTGOMERY: It is difficult to follow the cases up?

Mr. STEWART: Yes, and they should be followed up. We should be able to do what Dr. Glueck at Harvard University has done following the children up years later in order to see how successful we have been and to test our results.

Mr. MONTGOMERY: Can you recall many cases within the last year where the same delinquent would be before the court for a second or third time?

Dr. ATCHESON: As far as I can contribute to this question from the clinic point of view, the question of recidivism, or "repeaters" before the courts is not increasing. Part of the percentage that makes up this figure are children who are definitely psychiatric problems, and under the limited facilities which are available for their treatment, we assumed they would repeat. Some are mentally defective and their basic capacity to learn the difference between

right and wrong is so limited that their repetitive offence is understandable. The majority of the repeaters are, I would say, extremely emotionally disturbed children and our facilities for dealing with these children, once we have recognized the condition, are extremely limited. This would be one of the areas where I would suggest that increased in-patient treatment of emotionally disturbed children would modify the incidence of recidivism. In my experience in studying 5,000 cases for a statistical report before the American Psychiatric Association, my observation is that the rate is not on the increase but remains at rather a stationary level.

Mr. STEWART: It is a problem that is still with us and we do not have the facilities we need to answer it.

Mr. MONTGOMERY: In other words, you are up against the problem of a lack of the proper facilities for treatment of the cause underlying the offence?

Dr. ATCHESON: That explains 70 per cent—30 per cent must be answered humbly with a humble explanation as to our limited knowledge concerning human behaviour. We are still on the horizon of understanding. Judge Stewart has made reference to the great work of Professors Elinor and Sheldon Glueck at Harvard. I remember on one occasion quoting some of our findings to that group and asking Dr. Glueck what would be the outcome of the attempt to understand the criminal mind and his answer was that of a very great and humble man. He said, "I hope it is a science, and a new one, of human behaviour".

Mr. MONTGOMERY: You mentioned the criminal mind. Do you infer from that that most of the delinquents have a criminal mind or is there a distinction? To me, you see, a criminal mind is one which has the ability to plan methods of committing offence and so on.

Dr. ATCHESON: I can appreciate from your question that the word was very poorly chosen. The juveniles that we see in the court involved in a delinquent act have all the potentials of becoming adult criminals unless some useful remedy and treatment procedure is offered to them. Their minds have developed, if you will, an attitude towards anti-social behaviour and if it continues and is not modified they will definitely form a pattern of anti-social behaviour as adults.

Mr. WINCH: Is that what you meant by "an anti-social mind"?

Dr. ATCHESON: An anti-social mind is perhaps better.

Mr. MONTGOMERY: In other words, environment has a great deal to do with delinquency and the criminal mind?

Dr. ATCHESON: A great deal.

Mr. MONTGOMERY: I gather from what you and Mr. Stewart have said that you have not had a great deal of experience in the more senior class of people as to how corporal punishment reacts on them. What has been your experience concerning the inconsistency of the courts in giving corporal punishment?

Mr. STEWART: That is beyond my jurisdiction, Mr. Chairman.

Mr. MONTGOMERY: That is all.

The PRESIDING CHAIRMAN: Mr. Thatcher?

Mr. THATCHER: No questions.

The PRESIDING CHAIRMAN: Mr. Lusby?

Mr. LUSBY: No questions.

Mr. BOISVERT: Since there was a reference to domestic troubles I should like to ask one question. Is there any connection between domestic troubles and marriage status with regard to juvenile delinquency?

Mr. STEWART: I am not quite certain that I understand the question.

The PRESIDING CHAIRMAN: Perhaps you would like to rephrase your question?

Mr. BOISVERT: Yes, I would like to put it more clearly. Has divorce, for instance, any connection with juvenile delinquency? In putting the question in this way, I am mentioning divorce simply as an example.

The PRESIDING CHAIRMAN: You mean a disturbed home?

Mr. BOISVERT: Yes, home disturbances and breaches in the family.

The PRESIDING CHAIRMAN: Do you mean before the divorce or after the divorce?

Mr. BOISVERT: Yes, before the divorce, and following the divorce or separation or anything like that; any domestic trouble?

Mr. STEWART: Over 60 per cent of our cases originate from disturbed homes.

Hon. Mrs. HODGES: Not necessarily from homes of divorced couples?

Mr. BOISVERT: No, I used that as an example.

Hon. Mrs. HODGES: Yes, but I was going to get a little further clarification.

Mr. STEWART: Disturbances in the home.

Mr. BOISVERT: What percentage?

Dr. ATCHESON: Between 50 and 55 per cent of our cases come from broken homes—whether the cause is death or separation—and by far the largest cause of separation would be one of mutual disagreement or an agreement that they separate.

Hon. Mrs. HODGES: I should like to ask one question which rather follows up a question which Mr. Montgomery asked. As a result of your long experience in court cases of juvenile delinquency, have you found that you have been able to reclaim many juveniles and to prevent their pursuing a life of crime after your ministrations?

Mr. STEWART: We think we are having a fair measure of success. I regret I am not in a position to give actual statements or statistics, but I think perhaps the doctor has some comments he could make from a study made by the Gluecks of Harvard in that regard.

Dr. ATCHESON: One study that was made that might be illuminating was the follow-up of 1,000 juvenile delinquents who had been adjudged in a state of delinquency to the point that they were committed to a training school. 35 per cent of this group followed up later with adult criminal careers. This was a study which commenced in 1928 and was carried on over a ten-year period. I do not think we can generalize on these findings and say that they are appropriate to the Canadian scene. I think rather that the judge's suggestion is correct, that research is something we should do in order to answer this question with complete accuracy.

The PRESIDING CHAIRMAN: Mr. Blair?

Mr. BLAIR: Mr. Chairman, I take it that the witnesses see no advantage appropriate to the Canadian scene. I think rather that the judge's suggestion is been made in this committee that corporal punishment might be used to advantage on older offenders, particularly in relation to crimes involving hooliganism. I wonder if the witnesses would care to comment on that suggestion and on the complementary suggestion that was made that it was advisable to use this method of punishment rather than to put such people in a jail?

Mr. STEWART: I do not think it is proper for me to comment on that question.

Mr. BLAIR: I wonder if Dr. Atcheson would care to speak on that subject?

Dr. ATCHESON: My comments on the question must be made with the full knowledge of the committee that my experience is limited in dealing with this group of offenders. As a clinical teacher in the department of psychiatry at the University of Toronto, I am involved in a forensic clinic, a clinic which sees adult offenders remanded for examination by judges and magistrates under the Ontario Psychiatric Hospitals Act. In seeing these cases over the years, I would simply leave my impression that I have yet to see a problem in which I feel that corporal punishment ordered by the court would have been useful in correcting the individual's personality disorder.

Mr. BLAIR: Perhaps to put the question in another way, and follow up what was said earlier, have you people any reason to suspect that older offenders in the age group under 20, would react differently to corporal punishment than would juvenile offenders?

Dr. ATCHESON: Again, I feel it would be a matter of opinion and perhaps not one that is completely scientifically validated. But in my experience dealing with these cases, if there is a suspicion of mental disorder it would be my opinion that corporal punishment would serve no useful purpose.

Mr. BLAIR: I wonder if Judge Stewart has any other statistics in his possession apart from those already given to us this morning?

Mr. STEWART: Well, with respect to juvenile delinquency, it may be of interest to this committee that of the 5,902 children brought to the court last year, only 24 per cent of these went into court on charges. 76 per cent were dealt with on a preventive basis by our staff. That is, we tried to assist parents on an occurrence or a preventive basis. A total of 542 children were under court supervision, or were on probation during the last year. I would just like to re-emphasize at this point the value of probation in this whole scheme of things. There is no substitute for the impact of a mature, wholesome personality on a child in trouble; and a well integrated, skilled and carefully trained probation officer can save us a great deal of money in our costs of crime. One of the problems is that our probation officers have been carrying loads that have been too heavy. No probation officer can adequately supervise 70 children.

Mr. WINCH: Mr. Chairman, an interesting question arises at this point. Is Mr. Stewart in a position to say in approximately how many instances it was found necessary to revoke the probation because of the attitude of the child?

Mr. STEWART: That is, bringing them back before the court on a breach of probation?

Mr. WINCH: Yes, or did you find they reacted when you reacted in the way you did as a judge?

Mr. STEWART: Not more than 10 per cent would be brought back to the court.

Mr. MONTGOMERY: May I interject a question? Who usually brings these children before the court?

Mr. STEWART: Most of the children are brought before the court by the police; about 75 to 80 per cent. The next largest group is brought before the court by the parents on charges of incorrigibility and unmanageableness. Most of those are girls.

Hon. Mrs. HODGES: Can you explain that?

Mr. STEWART: When a boy comes up before the court, he is usually there on a specific charge, but when a girl comes up before the court—

Hon. Mrs. HODGES: She plays the whole field?

Mr. STEWART: That is one way of putting it, Senator Hodges.

Mr. BLAIR: Have you any further statistics?

Mr. STEWART: I have some statistics which the doctor might like to put in concerning the volume of his work. Do you wish to put them in Dr. Atcheson?

Dr. ATCHESON: On the clinical side of the court's function there were 610 cases officially referred by the court last year. There were some 59 unofficial cases which other agencies brought to us, and it was agreed we should deal with them in the clinic without court procedure. In the adult field there were 197 cases which were seen in an attempt to interpret marital disharmony. This function was restricted due to insufficient clinical staff. This demonstrates a total clinical load, for a staff consisting of one psychiatrist, one social worker, one secretary, and one part-time psychologist, of 866 cases. Some of these cases, which have not been recorded in this particular group of statistics, are adults charged with contributing to juvenile delinquency in so far as they involve themselves in some form of sex offence with a child so that we do see this element of the criminal problem. The number of cases charged with "contributing to juvenile delinquency", which includes habitual drunkenness as well as the sex charges I have mentioned, was 590. These were not all seen in the clinic; it would be an impossibility with our present staff. In that area, we demonstrate the use of an adequate liaison between the university and the university hospital.

A number of those charged with contributing are remanded to the Toronto Psychiatric Hospital at which time I have the opportunity, in my capacity as a member of the staff, to create a liaison between the court and the hospital.

Miss BENNETT: Mr. Chairman, may I ask a question arising out of what has just been said. We are very concerned about the question of sex pervers in and around Toronto. What experience are you having in that regard with the young people coming before you? Is there any commencement of that type of thing in the age group you are dealing with or where do you find that this perversion begins?

Mr. STEWART: Perhaps I could say this because Dr. Atcheson would not care to. Last year at the American Psychiatric Association convention in St. Louis, Missouri, Dr. Atcheson presented a paper on juvenile sex offenders which much to our amazement has received world-wide acclaim to the extent at least that we have had many requests from European universities and from Washington and elsewhere for reprints of this article. I think that it is a most significant article, and it shows what can be done in terms of research into this serious question when there are clinical facilities within the court. The doctor might wish to comment on the findings he arrived at in the paper based on the actual cases in the court.

Miss BENNETT: Well, if it is within the bounds of the committee, it would be interesting.

Dr. ATCHESON: I am certain it is not within the bounds of the question I thought would be asked today, but I would be willing to describe it or to provide a copy to the committee if they feel it would be of interest.

Hon. Mrs. HODGES: I am interested in Miss Bennett's question as to what age you find it starts and at what age you detect a pattern?

Dr. ATCHESON: We find the age in which the sexual deviants' pattern commences is much younger than we thought, especially with regard to the male offender where the acts are more obviously disturbing to the total social conscience and social morals. The problem of the female sex offender is fairly well relegated to the area of sexual promiscuity. In that way it is a heterosexual act, which we would not consider socially or morally acceptable, but which is not pathological. It is an act which causes us great concern because of the obvious potential result of physical harm to the girl. I think the attitude of the court is expressed from our study of sex offenders in which

we studied the relationship of the total male juvenile population coming before the court that were committed to training schools. There were no more sex offenders committed to training schools than those charged with theft. In other words, these were cases the majority of which in our opinion should be dealt with clinically and they were referred to clinics wherever possible. Again, I cannot answer concerning the follow-up on this matter; it is one for future research, and it is beyond the capacity of our present staff to carry out this research. However, I feel it is very much needed. We feel strongly that many of the juvenile sex offenders we see, especially the males, are going to be adult sex problems, so I bring forth again my concern over the need of further research in preventative techniques. Perhaps the answer to the adult male sex offender is an adequate approach in discovering and dealing with the juvenile sex offender and providing adequate hospital facilities where necessary to deal with the problem over a long period of time.

There are other factors which come into the picture which we feel could give it some definition such as a purely statistical analysis of the problem. Our approach has been an attempt to categorize sex offenders and to discover what methods might be helpful in solving the problem which is a very current one, as many of you know, not only in Toronto but also nationally, and one which, I think, demands again a very careful research program in order to arrive at accurate conclusions.

Miss BENNETT: That is very fine, Dr. Atcheson. As you know, in Toronto we are greatly concerned with this problem and you say it is a national problem. I am very glad to hear you comment on it and I would be very happy to have your treatise on it, if I might. Perhaps the committee would like to have it, Mr. Chairman.

Mr. BOISVERT: On this point, is it worse today with regard to sex offences than it was ten years ago, according to your experience?

Dr. ATCHESON: It would be my considered opinion that it is not. I think that society as a whole is becoming concerned and I look upon this as a very good indication of positive social thinking. There is an awareness in people concerning this problem although some of it is based on a destructive attitude, "Let's destroy them; they are a nuisance." More constructively there is an attitude that the problem should be studied to see what actually should be done. A free expression of a desire on the part of lay people to participate in such a search for a solution could not have been forthcoming twenty years ago because they would have been unable to calmly look at the problem with any common humanistic approach.

Mr. BLAIR: Mr. Chairman, I wonder if it would be of interest to the committee to have Dr. Atcheson describe in more detail how he carries on this psychiatric clinic and what action he takes with regard to it?

Dr. ATCHESON: I would be pleased to, Mr. Chairman, if it is within the bounds of the committee. First of all, I would like to reply to that request by stating that we are strongly convinced of the value of legal-medical relationship that exists in the court and that our clinical examinations should enter in post-trial. In other words, the initial person to deal with this problem is the judge. He determines, as he should in our social structure, whether or not this is a delinquency problem. This is not the prerogative of medicine, it is the prerogative of law as it is laid down in the legal structure. This, too, serves a purpose for the clinician because it allows him to involve himself in a fact-finding clinical adventure without being concerned as to whether or not he has to produce evidence and thus destroy his ethical doctor-patient relationship which exists even with a child. I am never called upon by the judge of our court to offer any evidence concerning the child's misdemeanour. I am

only asked to offer an explanation of his behaviour and some structure of a treatment directed towards its management. For this reason we feel it is an important point that the clinical examination take place post-trial. The cases are referred to the clinic with a remand period of a week to ten days. Depending on the exigencies of the problem and the insecurity of the home or the nature of the act itself and its threat to society, the child is either allowed back in his own home during the week or is cared for in an observation home. During that period we bring to bear the efforts of a team. Mine is only one role, that of a psychiatrist, to determine whether or not this child's behaviour is representative of a mental deficiency, an organic brain disease, or sometimes of a mental disorder.

The psychologist enters into the clinical plan and conducts a group of tests to indicate the child's intelligence, his ability to profit from learning and certain aspects of his total personality development. From the medical point of view the child receives as complete a medical examination as is possible. Many times we find that a physical factor will contribute towards the delinquency. A case to illustrate this point is a lad I saw recently who had a cataract in his right eye which was rather deforming. He was called "Whitey" by his companions and in order to prove that he was as good as they were, even with a bad eye, "Whitey" stole; he later received surgical attention and has improved favourably. From the social side of the problem our investigator visits the home. We feel this is necessary and if a report is to be useful to us the interview should be conducted not in the office but in the kitchen where the child lives in order that the social worker can observe the conditions under which he lives and the facilities that exist in the home.

We contact the schools, and receive their full cooperation in maintaining the ethical components of our clinical investigations. The principal and the teachers describe to us the child's behaviour and his academic achievements in the school. We contact welfare agencies and religious advisers. It has already been pointed out that meaningful religious involvement is rather infrequent and this is a problem that causes us concern. We contact other social agencies; the Children's Aid Society, the Big Brothers, the Neighbourhood Workers, et cetera, who might have known this family at some time.

Out of this type of information we try to give without the use of jargon and in a communicative form, maintaining my own scientific language for its own purposes, a picture of this child to the court. Many times, even with this information, one feels ill at ease. You feel there are answers you do not understand. In these cases, as far as time and facilities will permit, we call a conference of these people, and it is an amazing scene in our rather small office to see some 10 or 15 intelligent people, ranging in social status from the priest to the school teacher, discussing the problem of one 11 year old thief. Many times out of that communion of the professions there comes an understanding that could not be gained in any other way. We, at least, all know what we are talking about and, out of the common democratic theme of that conference, we present the case to the court. It takes the composite efforts of this team some eight hours to produce an answer of any value to the court in any one given case. This is our diagnostic function. We feel that when a child is placed on probation and the clinic is used as a source of reference constantly for the probation officer, he may add a great deal to the facts that we knew before, and our whole view may change as probation progresses.

I cannot within this time limit, without boring you, describe the various avenues of treatment that we take out of this material. It is sufficient to say that there are many. A second function of the clinic is to involve itself in research and, within the limits of its clinical load and the number of hours in a day, we try to conduct such research. We hope our function in this area will increase.

We have a third function which I feel is extremely important, namely that of associating with the teaching program at the university. Physicians at a senior level, dealing in the psychiatric specialty, spend considerable time in the court clinic to see this area of psychiatry in the community. We feel it is a part of our job to see others in the related professions and to share our experiences with them. This is a composite of our function.

Mr. BLAIR: I do not wish to take the committee too far afield, but it seems to me that several witnesses we have had before us referred to "probation" and it may be of some interest to the committee to learn what is involved in probation?

Mr. STEWART: Mr. Chairman, we have tried to emphasize throughout our brief and in our subsequent remarks the fact that our approach in metropolitan Toronto is a "teamwork" approach. The judge, the doctor, the probation officer and the staff in general work together with a common purpose in mind, and in that regard metropolitan Toronto has been very kind to us this year and is providing us with a new juvenile and family court centre which is going to cost something slightly less than a million and a half dollars in which to do this job more effectively than we have been able to in the past. But with regard to your point with respect to probation, the probation officer is the social worker attached to the court. I will qualify that by saying that the probation officer is a social worker "with a punch." He has an element of authority behind him, and yet he can put into effect all the techniques of an authentic social worker. His success rests on a number of factors; first of all, his own personality make-up, his own standard of values, whether he can get across to the child, whether he can establish rapport with a child, whether he can influence a child and project his point of view on that youngster. It is the old treatment of the "alchemy of influence" or the "contagion of personality" or whatever you want to call it, that is basically his "modus operandi". In order to be effective, we feel that a probation officer must be a well trained person who understands the clinical and human approach in order to work along with this team in the direction of solving the problem of a child. As I have said before, we have had probation officers in our court all these years. We feel that the probation services ought to be extended, and the taxpayer's dollar will be saved for him if such a program is put into effect.

Hon. Mrs. HODGES: May I inject a question? I do not know whether it is a fair question, but I would like to ask Mr. Stewart whether he thinks the million and a half dollars which is contemplated being put into the construction of a new centre would be better utilized if it were to secure more probation officers and staff? I did say I was not sure whether it was a fair question!

Mr. STEWART: We want that building, senator.

The PRESIDING CHAIRMAN: I think it would be a very fair question. I think it would be desirable to have the building. You cannot work unless you have some place in which to work.

Hon. Mrs. HODGES: I was only asking about the comparative value of the two things.

The PRESIDING CHAIRMAN: As a layman, I think it would be quite worth while.

Hon. Mrs. HODGES: I simply wanted to get the judge's view.

Mr. STEWART: We need both. We need more probation officers, and better facilities.

The PRESIDING CHAIRMAN: I thought you were hesitating in giving your answer?

Mr. STEWART: Oh, no.

Mr. MONTGOMERY: May I just inject a question? I have gathered from what you said that both you gentlemen certainly recommend probation rather than imprisonment or the internment in any sort of home. I suppose that under 12 years of age, children would not likely be committed. I take it that from your experience, you are more in favour of probation than imprisonment?

Mr. STEWART: I personally feel that the best place for a child is in his own home, all things being equal. But unfortunately some children come out of their own homes for a number of reasons. A probation officer can supplement the place of the parent in the home, but even with this type of effort extended we still have very serious problems which require institutional treatment.

Mr. FAIREY: May I ask the doctor if he uses the foster homes to any extent?

Dr. ATCHESON: Yes, to a large extent, through the agencies who provide these homes. In other words, through a conference with the Children's Aid Society we might arrive at the conclusion that a foster home is needed, and we utilize their facilities in finding that foster home.

Mr. FAIREY: On the whole do you find that they are quite satisfactory, or is there a tendency to farm out children to unsuitable homes?

Dr. ATCHESON: I do not feel that I can answer the latter part of your question. It is our assumption that we can trust the agency which provide foster homes with reasonable discretion as to the nature of the home they are providing.

Mr. FAIREY: I think that I have had knowledge of cases where that has occurred where people who run a foster home for the money that is in it have more children than they can adequately take care of.

Mr. STEWART: I cannot comment on that, Mr. Chairman. I do say that many of our children are very serious problems and it takes a very unusual type of foster home to adequately take care of them.

Mr. THATCHER: Would one of the gentlemen tell me how much one of these probation officers earn and how they are trained?

Mr. STEWART: Salaries vary across Canada.

Mr. THATCHER: Say, for instance, in the Toronto area?

Mr. STEWART: They average about \$4,000 a year.

Mr. THATCHER: How is the probation officer trained?

Mr. STEWART: The criteria laid down by the municipality of Metropolitan Toronto is that he shall be a graduate of a university school of social work or recognized equivalent.

The PRESIDING CHAIRMAN: How many years would that take after high school?

Mr. WINCH: Five years university; four years for a straight B.A. and one or two years for social work. I can say that because my brother is one.

The PRESIDING CHAIRMAN: Are there any further questions?

Mr. BLAIR: Mr. Chairman, I have a further question to ask. I want to make sure that I completely understood what the witnesses have said on this one point and again it is the question of the young adult offender, the person who may perhaps be under 20 years of age but is no longer a juvenile delinquent. Have the witnesses any reason to believe that this group would be any more responsive to corporal punishment than the juvenile delinquents?

Mr. STEWART: I am still in the position that I cannot answer that question.

Mr. BLAIR: Perhaps Dr. Atcheson with his medical experience might be in a position to help us.

Dr. ATCHESON: Drawing from my professional experience it would be my opinion that corporal punishment directed towards offenders serves no purpose.

Mr. MONTGOMERY: Regardless of the age?

Dr. ATCHESON: Regardless of the age.

Mr. BLAIR: When this brief uses the phrase "a magic treatment to effect a quick cure", is it reasonable to assume that you disapprove of this quick cure for the young adults as well as for the juvenile delinquents?

Dr. ATCHESON: That would be my opinion. If I may enlarge on that it is considered very poor therapy to give an aspirin for a headache if you do not know what is causing that headache. It may be a brain tumor.

Mr. FAIREY: Following on the question by Mr. Blair we have had evidence from those in charge of institutions asking that corporal punishment be retained for disciplinary reasons within the institution?

Dr. ATCHESON: I feel very unjustified in offering an opinion on that as my experience in institutions of an adult nature is limited.

Mr. FAIREY: But you did say that corporal punishment was not effective under any circumstance?

Dr. ATCHESON: I mentioned formerly that I draw that conclusion from my experience in dealing with people remanded to a psychiatric unit by the courts.

The PRESIDING CHAIRMAN: If there are no further questions, I wish, on behalf of this committee, to express to you, Judge Stewart and to Dr. Atcheson, our sincere appreciation of your attendance here today and the help which you have been to this committee. I thank you very much.

Now, I might also remind the committee that we will meet next Thursday at a place which is not designated, at 10.00 a.m. The reason for the hour is that we expect our witnesses will carry on after the two-hour period and we will not be able to have them for subsequent meetings.

